IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.3702 OF 2001

S.D. Misra)
Adult, Indian Inhabitant of Mumbai)
residing at E-21, Saptarishi)
Sector-2, Srishti, Mira Road (East))
Mmbai 401 104.).. Petitioner

Versus

1) Union of India through the)
General Manager, Western Railway)
Churchgate, Bombay 400 020.)

2) The Financial Adviser & Chief)
Accounts Officer, Western Railway)
Churchgate, Bombay 400 020.)

3) The Deputy Chief Engineer (S&C))
Western Railway, Churchgate)
Bombay 400 020.)

4) Railway Board, Rail Bhavan)
New Delhi 110 001.).. Respondents

Mr.G.K. Masand for the Petitioner.

Mr.V.Masurkar with Smt.N.V. Masurkar for Respondent Nos.1 to 3.

CORAM: V.G. PALSHIKAR, Ag. C.J. AND SMT. NISHITA MHATRE, J.

DATED: 23RD JANUARY 2006

ORAL JUDGMENT :

. By this Petition, the Petitioner has impugned the action of the Respondents in not forwarding his Review Petition to the President of India.

2. Such prayer was made before the Central Administrative Tribunal but the Tribunal, on erroneous view, came to the conclusion that the Petition before it was barred by time and, therefore, rejected the Petition.

3. Reliance is placed on Rule 31 contained in Railway Servants (Discipline & Appeal) Rules, which reads thus :

> "31. **Right to submit petitions to the President**. Nothing in these rules shall operate to deprive a Railway Servant from exercising his right to submitting a petition to the President in accordance with the instructions contained in Appendix "X" to the Indian Railway Establishment Code, Volume I."

4. It is obvious from the same, that the Petitioner has a right to submit a representation/ petition to the President of India against whatever injustice he alleges to have occurred to him. That being the position, not forwarding of the said Petition to the President of India, was challenged before the Tribunal and the

Tribunal ought to have considered that aspect on merits of the case and not censured the Petitioner-original Applicant on the ground of limitation. In our opinion, interest of justice requires that the impugned order is set aside and the matter is remanded back to the Central Administrative Tribunal for deciding the Original Application on merits in accordance with law as early as possible.

5. Writ Petition accordingly disposed of.

(V.G. PALSHIKAR, Ag.C.J.)

(SMT.NISHITA MHATRE, J.)